

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WASHTENAW

WEINSTEIN & WEINSTEIN, a
Michigan Co-Partnership,

Plaintiff,

vs.

LOCH ALPINE SANITARY AUTHORITY OF
WEBSTER and SCIO TOWNSHIPS, WASHTENAW
COUNTY, MICHIGAN, a Municipal corporation,

Defendant.

LOUIS L. WEINSTEIN (P 22124)
Attorney for Plaintiff

COMPLAINT

NOW COMES WEINSTEIN & WEINSTEIN, a Michigan Co-Partnership by and through their attorneys and complains of LOCH ALPINE SANITARY AUTHORITY OF WEBSTER and SCIO TOWNSHIPS, WASHTENAW COUNTY, MICHIGAN, a Michigan Municipal Corporation, and for their cause of action say:

1. Plaintiff is a Michigan Co-Partnership consisting of Milton Weinstein and Louis Weinstein, with its offices located at 26211 Central Park Boulevard, in the City of Southfield, Michigan.
2. That Defendant is a Michigan Municipal Corporation which was duly licensed and authorized to act as a Sanitary Authority for the erection of a filtering and purifying plant and for operating such plant and the attendant sewer and water facilities for a subdivision known as Loch Alpine Subdivision located in Scio and Webster Townships in the State of Michigan.
3. That under date of May 18, 1964 wherein said Loch Alpine Sanitary Authority was a plaintiff; a judgment was entered before the Honorable William Ager, Jr. in the Circuit Court for the

County of Washtenaw, being Case No. 483, decreeing that the said Loch Alpine Sanitary Authority was the sole and exclusive owner of the lots, water lines, sewer lines and sewer disposal plant and easements located in Loch Alpine Subdivision. And further, that said Loch Alpine Sanitary Authority was obligated by said Judgment to which reference is hereby made to "amplify and expand the aforesaid sewer lines, sewer disposal plant and water system to serve all of the residents of the Loch Alpine subdivision and acreage contingent thereto" and said Loch Alpine Sewer Authority was ordered to undertake "the proper procedure to carry out this application by bond issue, loans or other means of financing such amplification".

4. That subsequent to the entry of said Judgment providing for the said Loch Alpine Sanitary Authority to amplify and expand the sewer plant and in an agreement entered into on the date of May 14, 1971, the said Defendant did enter into an agreement with the Suffolk Company, which agreement is hereto attached and made a part hereof by which agreement the aforesaid Authority did receive the sum of \$150,000.00 which sum was to be used, pursuant to said agreement, to proceed with completion of plans and specifications for the expansion and construction of additional sewage facilities in accordance with said Agreement. Said Sewer Authority did by that agreement agree to use said money for the expansion of the said sewer disposal system and did issue to said Suffolk Company prepaid Certificates of Tap-in to be used for tap-in to the sewer system of said defendant.

5. Plaintiffs herein are successors and assignees of the Suffolk Company, a Michigan Corporation, and by assignment have received those certain certificates issued by the said Sanitary

Authority, said defendants, for tap in rights into the sewer system operated by the said defendants. That although by the terms of the agreement the said defendants were obligated to undertake the expansion of said sewer facilities and the said sewage disposal system, the said defendants have failed, neglected and refused to so expand the said sewer facilities operated by them and have kept the money so advanced to them pursuant to said agreement in violation of said agreement and have refused to expand the said sewage facilities or to return the monies so paid to them by the terms of said agreement and contract to which reference is hereby made.

6. That the said plaintiff was and are owners of lots in Loch Alpine Subdivision and the adjoining acreage that are entitled to be tapped into the sewer system operated by the said defendant, which lots and acreage said plaintiff has been unable to sell as not being buildable without the ability to obtain sewer and water facilities. That said plaintiff has been damaged by the loss of the sale of said lots to plaintiff's damage, in excess of Five Million Dollars.

7. That the defendant has been requested on numerous occasions to comply with the Order of the Court previously entered as set forth in said Court action and by the terms of the agreement with the Suffolk Company wherein defendant agreed to amplify the sewer facilities with funds advanced to them for such uses, but that said defendant has failed, neglected and refused to so do.

8. Whereas, the plaintiff herein requests that this Court issue a mandatory injunction requiring the said defendant to comply with the previous Court Judgment and with the contract by them signed and to be required to pay to this plaintiff damages sustained

by the said defendant's refusal to comply with the Court Judgment and their own contract.

WHEREFORE, Plaintiff prays:

1. That this Court issue a Order to Show Cause why a mandatory injunction should not be issued ordering the said defendant to comply with the Judgment of the Court entered on May 18, 1964 to amplify and expand the sewer system under their exclusive contract and upon a hearing of said cause that a mandatory injunction be entered requiring the defendant to amplify the existing sewer system.

2. That in the alternative this Court dissolve the Judgment of May 18, 1964 granting the defendant exclusive right to expand the sewer system and return said right to the plaintiff as assignee of the original holder of right of expansion of the sewer system.

3. That the said defendant be ordered to return to the plaintiff funds paid over to them pursuant to the agreement with the Suffolk Company dated May 14, 1971 by which they were paid for the purpose of amplifying and expanding the sewer system.

4. That the Court order the defendant to give an accounting of all funds received by them as tap in fees subsequent to May 18, 1964, pursuant to a Judgment of the Court that they have never complied with.

5. That defendant be required to pay to the plaintiff all damages sustained by them by virtue of the defendant's failure and refusal to comply with the Court Judgment and contracts entered into.

And Plaintiff will ever pray.

WEINSTEIN, WEINSTEIN & TRAUIG

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF WASHTENAW

LOCH ALPINE SANITARY AUTHORITY OF
WEBSTER AND SCIO TOWNSHIPS, WASHTENAW
COUNTY, MICHIGAN, a Michigan municipal
corporation,

Plaintiff,

vs.

CALVIN SHUBOW, et al.

Defendants.

GENERAL CIVIL ACTION

No. 488

FILED
MAY 18 5 05 PM '64
LUELLA M. SMITH
COUNTY CLERK

JUDGMENT

At a session of said Court held in the
Courthouse at the City of Ann Arbor, Washtenaw
County, Michigan on the 18th day of May,
1964.

PRESENT: HONORABLE William F. Ager, Jr.
Circuit Judge

This matter having come on to be heard at the pre-trial
hearing and upon reading the pleadings in the above entitled cause
and the argument of counsel for the plaintiff and the defendant,
CALVIN SHUBOW & MILDRED SHUBOW, his wife, having disclaimed any
interest in said proceedings and the defendants WEINSTEIN &
WEINSTEIN having conveyed by Quit Claim Deed to the plaintiff,
LOCH ALPINE SANITARY AUTHORITY OF WEBSTER & SCIO TOWNSHIPS, WASH-
TENAW COUNTY, MICHIGAN, a Michigan Municipal Corporation, the right,
title and interest in and to the lots, easements and the right of
amplification of said sewers to the said Sanitary Authority as
prayed for in the Complaint, and the Court being fully advised in

IT IS ORDERED AND ADJUDGED that the plaintiff, LOCH ALPINE SANITARY AUTHORITY OF WEBSTER & SCIO TOWNSHIPS, WASHTENAW COUNTY, MICHIGAN, a Michigan Municipal Corporation, is the sole and exclusive owner of the lots, water lines, sewer lines and sewage disposal plant and easements located in Loch Alpine Subdivision as described in Exhibit "A", Webster & Scio Townships, Washtenaw County, Michigan, and the right of reverter in and to the aforesaid lots, easements, water and sewer lines held by CALVIN SHUBOW & MILDRED SHUBOW, his wife, and their assigns, is hereby terminated.

IT IS FURTHER ORDERED AND ADJUDGED that the right of CALVIN SHUBOW & MILDRED SHUBOW, his wife, their heirs and assigns, to amplify the said sewer system and facilities and to designate priority of tap-in into the aforesaid system under Quit Claim Deeds of December 9, 1957 and Agreement dated December 7, 1957 and as amended on March 9, 1960, is hereby terminated and the right to amplify the said water system, sewage lines and sewer disposal plant shall and is hereby adjudged to be in the Plaintiff, LOCH ALPINE SANITARY AUTHORITY OF WEBSTER & SCIO TOWNSHIPS, WASHTENAW COUNTY, MICHIGAN, a Michigan Municipal Corporation.

IT IS FURTHER ORDERED AND ADJUDGED to be the duty and the obligation of the plaintiff, Sanitary Authority, to amplify and expand the aforesaid sewer lines, sewage disposal plant and water system to serve all of the residents of the Loch Alpine Subdivision and the acreage contiguous thereto hereinafter described in EXHIBIT B hereto attached and said plaintiff shall undertake proper procedures to carry out its obligations by bond issue, loans or other means to finance such amplification and expansion

NOT TO BE

and shall have the right to make reasonable charges for all of its services.

IT IS FURTHER ORDERED AND ADJUDGED that the aforesaid plaintiff, Sanitary Authority, shall make no priority to any lot or land in the subdivision or acreage as heretofore described as to the right to tap-in into the water and sewage system and that a first-come first-serve basis be adhered to in the issuance of all permits in the aforesaid subdivision and the aforesaid described acreage.

IT IS FURTHER ORDERED AND ADJUDGED that the present existing rights of the adjoining herein described acreage to tap-in and use existing water, sewer, waste disposal and other facilities is hereby affirmed and that there shall be no time limit for said acreage to tie in and use said facilities.

~~CIRCUIT JUDGE~~
IT IS FURTHER ORDERED AND ADJUDGED that this cause shall be dismissed as to DAVID SHUBOW, MAX CONWAY, A. JOSEPH SELTZER, SIDNEY M. SHEVITZ.

William F. Ayer
CIRCUIT JUDGE

APPROVED.

James H. Ryan
ATTORNEY FOR PLAINTIFF

David L. Ryan

NOT TO BE

EXHIBIT A

Lots 407, 462 and 473, Loch Alpine, a subdivision located in Webster and Scio Townships, Washtenaw County, Michigan, according to the Plat thereof as recorded in Liber 8 of Plats, pages 26, 27 and 28, Washtenaw County Records;

And an easement appurtenant to the above described lots in, above, over and under all the private roads, ways and paths located in said Loch Alpine Subdivision, and additional rights of way hereinafter described, the purpose of said easement being for the installation, maintenance and/or replacement of sewer and water lines. No title to the roads, paths or ways of easements hereinafter described, other than by the easement above expressed, is intended to be conveyed hereby.

A Right of Way 20 feet in width, being 10 feet each side of the following described centerline: Beginning in the East line of Lot 40 at a point which is North $1^{\circ}28'$ West 3.84 feet from the Southeast corner of Lot 40; thence North $19^{\circ}50'$ West 94.75 feet to a point in the North line of Lot 40, said point being South $76^{\circ}43'30''$ West 30.5 feet from the Northeast corner of Lot 40; thence North $19^{\circ}50'$ West 107.96 feet to a point in the North line of Lot 39, said point being South $83^{\circ}28'$ West 12.73 feet from the Northeast corner of Lot 39; thence North $19^{\circ}50'$ West 72.1 feet to a point in the Easterly line of Lot 38, said point North $29^{\circ}12'30''$ West 76.05 feet from the Southeast corner of Lot 38. Affects lots 38, 39 and 40.

A Right of Way 12 feet in width, being 6 feet each side of the following described centerline: Commencing at the most Westerly corner of Lot 91; thence South $70^{\circ}42'$ East 43.5 feet in the Southerly line of Lot 91 for a place of beginning. Thence North $45^{\circ}56'$ West 44.88 feet to a point in the Westerly line of Lot 91, said point being North $27^{\circ}36'30''$ East 19 feet from the most Westerly corner of Lot 91; thence North $45^{\circ}56'$ West 182.37 feet to a point in the curved Westerly line of Lot 90, said point being North $63^{\circ}27'30''$ East 24.8 feet from the most Westerly corner of Lot 90. Affects Lots 90 and 91.

A Right of Way 12 feet in width, being 6 feet each side of the following described centerline: Commencing at the most Westerly corner of Lot 119; thence North $20^{\circ}48'10''$ East 41.52 feet to a point on the Westerly line of Lot 119 for a place of beginning: Thence North $71^{\circ}12'$ East 110.13 feet to a point in the Northerly line of Lot 119, said point North $73^{\circ}20'$ West 99.5 feet from the Northeast corner of Lot 119; thence North $71^{\circ}28'$ East 39.33 feet; thence North $55^{\circ}53'$ East 61.63 feet; thence North $38^{\circ}36'$ East 35 feet more or less to a point in the curved Northeasterly line of Lot 120. Affects Lots 119 and 120.

A Right of Way 12 feet in width, being 6 feet each side of the following described centerline: Commencing at the most Southerly corner of Lot 148; thence Northwesterly 23.3 feet along the Westerly line of Lot 148 for a place of beginning. Thence North $37^{\circ}35'$ East to a point in the Easterly line of Lot 148, said point being 4.5 feet Northwesterly from

A Right of Way 12 feet in width, being 6 feet each side of the following described centerline: Commencing at the most Easterly corner of Lot 155 of "Loch Alpine"; thence South $69^{\circ}12'$ West 48.55 feet to a point on the Southerly line of Lot 155 for a place of beginning: Thence North $25^{\circ}00'$ West 166.26 feet to a point on the Northerly line of Lot 155, said point being South $42^{\circ}54'$ West 20.4 feet from the most Northerly corner of Lot 155; thence North $25^{\circ}00'$ West 134.91 feet to a point on the Northerly line of Lot 154, said point being South $42^{\circ}54'$ West 19.0 feet from the most Northerly corner of Lot 154; thence North $25^{\circ}00'$ West 50.5 feet to a point in the Northeasterly line of Lot 153, said point being North $47^{\circ}07'$ West 46.8 feet from the most Easterly corner of Lot 153. Affects Lots 153, 154 and 155.

A Right of Way 12 feet in width, being 6 feet each side of a centerline described as: Commencing at the Southwesterly corner of Lot 77 of the Plat of "Loch Alpine"; thence South $48^{\circ}35'$ West 269.73 feet in the Northerly line of Huron River Drive; thence North $36^{\circ}43'$ West 6 feet for a place of beginning. Thence North $53^{\circ}17'$ East 219 feet; thence South $63^{\circ}59'$ East 59.47 feet to the Southerly line of Huron River Drive; thence South $63^{\circ}59'$ East 242 feet to the Northerly bank of the Huron River, the point of ending.

A Right of Way 12 feet in width, being 6 feet each side of the following: Beginning on the Westerly line of Greenook Boulevard at the Lot corner common to Lots 5 and 6; thence Westerly along the Southerly line of Lot 6 to the Northwestern corner of Lot 2; thence Southerly along the Lot line common to Lots 1 and 2 to the Northerly line of Huron River Drive.

A Right of Way 12 feet in width, being 6 feet each side of the Lot line common to Lots 184 and 185.

A parcel of land contained in a portion of the grounds not otherwise designated as numbered lots in Loch Alpine Sub-division, said portion being bounded by Lot 473 on the South, Lots 72 and 73 on the West, Lot 74 on the North, and Lots 75 and 76 on the East.

EXHIBIT B

Land in the Township of Webster, Washtenaw County, Mich. Beginning at E. $\frac{1}{4}$ post of Sec.; thence S. $1^{\circ}22'E$. 1117.63 feet in E. line of Sec.; thence S. $82^{\circ}49'W$. 1358.50 feet; thence N. $1^{\circ}11'W$. 531.30 feet; thence N. $58^{\circ}43'E$. 1442.14 feet in center of highway; thence N. $86^{\circ}03'E$. 99.48 feet to place of beginning, being part of E. $\frac{1}{2}$ of S.E. $\frac{1}{4}$, Sec. 34, T 1 S, R 5 E; containing approximately $26\frac{1}{2}$ acres more or less.

A part of the N.W. $\frac{1}{4}$ Sec. 2, T 2 S, R 5 E, Scio Township, Washtenaw County, Michigan, described as: Commencing at the N. quarter post of Sec. 2, T 2 S, R 5 E; thence S. $2^{\circ}07'E$. 49.5 feet in the N. and S. quarter line of Sec. 2 for a place of beginning; thence S. $2^{\circ}07'E$. 1586.5 feet in the N. and S. quarter line of Sec. 2; thence S. $88^{\circ}2'30"W$. 1882.3 feet along an occupational fence line to the N.E. corner of Lot 99 of "Loch Alpine", a recorded plat; thence S. $87^{\circ}53'W$. 216.14 feet; thence N. $1^{\circ}00'W$. 1591.15 feet; thence N. $88^{\circ}27'E$. 2067.49 feet along the S. line of Eastgate drive to the place of beginning, containing 75.932 acres. The E. 33 feet being subject to the rights of the public in North Delhi Road; excepting therefrom; commencing at the N. quarter post of Sec. 2, T 2 S, R 7 E; thence S. $2^{\circ}07'E$. 1636 feet in the N. and S. quarter line of Sec. 2 for a place of beginning; thence S. $88^{\circ}22'30"W$. 1567 feet along an occupational fence line; thence N. $2^{\circ}07'W$. 725 feet; thence N. $88^{\circ}22'30"E$. 1567 feet; thence S. $2^{\circ}07'E$. 725 feet in the N. and S. quarter line of Sec. 2 to the place of beginning. Containing approximately $49\frac{1}{2}$ acres more or less.